

**FILED: QUEENS COUNTY CLERK 02/07/2020 02:37 PM**

NYSCEF DOC. NO. 1

INDEX NO. 702225/2020

RECEIVED NYSCEF: 02/07/2020

OUR FILE#1900875  
SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF QUEENS

\_\_\_\_\_X  
DIEGO F. GARCIA

Plaintiff(s),

-against-

UNITED AIRLINES, INC.

Defendant(s).  
\_\_\_\_\_X

Index No.:

Date Purchased: \_\_\_\_\_  
**SUMMONS**

The basis of venue  
is:  
**PLAINTIFF'S RESIDENCE**

Plaintiff resides  
at:  
934 118th Street  
Apt 2  
College Point, NY 11356

County of Queens

TO THE ABOVE NAMED DEFENDANT(s):

YOU ARE HEREBY SUMMONED to appear in this action by serving a notice of appearance on plaintiff's attorneys within 20 days after service of this summons, exclusive of the day of service, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, Judgment will be taken against you by default for the relief demanded in the Complaint.

DATED: Flushing, New York  
January 31, 2020  
D/A: 9/28/2019

United Airlines, Inc.  
c/o LT Corp  
28 Liberty Street  
New York NY 10005

Yours, etc.,  
MALLILO & GROSSMAN  
Attorney(s) for Plaintiff  
163-09 Northern Blvd.  
Flushing, New York 11358  
(718) 461-6633  
OUR FILE# 1900875

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DIEGO F. GARCIA

Plaintiff(s),

Index No.:

-against-

Date Purchased: \_\_\_\_\_  
**VERIFIED COMPLAINT**

UNITED AIRLINES, INC.

Defendant(s).  
-----X

Plaintiff, by his attorneys, MALLILO & GROSSMAN, ESQS, complaining of the defendants herein, respectfully show to the Court and allege:

1. That at all times hereinafter mentioned, the plaintiff, DIEGO F. GARCIA, was and still is a resident of the County of Queens, State of New York.
2. Upon information and belief, that at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., owned the plane at issue.
3. Upon information and belief, that at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., operated the plane at issue.
4. Upon information and belief, that at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., maintained the plane at issue.
5. Upon information and belief, that at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., managed the plane at issue.
6. Upon information and belief, that at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., controlled the plane at issue.
7. Upon information and belief, and at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., was and still is a domestic corporation duly organized and

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existing by virtue of the laws of the State of New York, doing business in the State of New York.

8. Upon information and belief, and at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., was and still is a foreign corporation doing business in the State of New York.

9. Upon information and belief, and at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., was and still is an unincorporated association doing business in the State of New York.

10. Upon information and belief, and at all times hereinafter mentioned, the defendant, UNITED AIRLINES, INC., was and still is a sole proprietorship doing business in the State of New York.

11. That on 9/28/2019, while plaintiff was a passenger on a UNITED AIRLINES AIRPLANE, he was caused to sustain serious personal injury when he was stuck by a food cart.

12. That on 9/28/2019, the defendant, UNITED AIRLINES, INC., its agents, servants and/or employees negligently and carelessly maintained said plane and food cart in such a haphazard, negligent manner as to cause the same to become and remain in an unsafe, improper and dangerous condition, which consisted of a trap and nuisance as well as a negligent and improper condition of which the defendant had due notice, or by the use of reasonable care and inspection therein, might and should have had due notice.

13. Upon information and belief, and at all times hereinafter mentioned, it was the duty of the defendant, UNITED AIRLINES, INC., its agents, servants, and/or employees to maintain the aforesaid premises and food cart in a safe, proper, lawful and careful manner, so that the same would not be dangerous to persons lawfully on said premises and to keep the same from defaults, traps and conditions constituting a danger and menace to person lawfully and properly

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therein.

14. That said accident and resulting injuries to the plaintiff were caused solely and wholly by reason of carelessness, recklessness and negligence of the defendant, without any negligence of the plaintiff contributing thereto.

15. That by reason of the premises and wrongful acts and omissions on the part of the defendants as aforesaid, the plaintiff has suffered and will continue to suffer pain and agony in mind and body and was unable to attend to his duties, all to his damage in the sum which exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction.

WHEREFORE, the plaintiff demands judgment against the defendants in the sum which exceeds the jurisdictional limits of all lower courts, which would otherwise have jurisdiction, together with the costs and disbursements of this action.

Dated: Flushing, New York  
January 31, 2020

MALLILO & GROSSMAN, ESQS.  
Attorney(s) for Plaintiff  
163-09 Northern Blvd.  
Flushing, New York 11358  
(718) 461-6633  
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STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF QUEENS )

I, DIEGO F. GARCIA, BEING DULY  
SWORN DEPOSES AND SAYS:

THAT I AM THE PLAINTIFF IN THE WITHIN ACTION.

THAT I HAVE READ THE FOREGOING COMPLAINT AND KNOW THE CONTENTS  
THEREOF; THE SAME IS TRUE AND TO MY OWN KNOWLEDGE, EXCEPT AS TO THE  
MATTERS HEREIN STATED TO AS ALLEGED ON INFORMATION AND BELIEF, AND AS TO  
THOSE MATTERS I BELIEVE IT TO BE TRUE.

  
\_\_\_\_\_  
DIEGO F. GARCIA

SWORN TO BEFORE ME THIS  
31 DAY OF JAN 2020

  
VANESSA MARTINEZ  
Notary Public, State of New York  
Reg. No. 01MA8094027  
Qualified in Queens County  
Commission Expires June 16, 2023

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COUNTY OF QUEENS

DIEGO F. GARCIA

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-against-

UNITED AIRLINES, INC.

Defendant(s).

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SUMMONS AND VERIFIED COMPLAINT

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**MALLILO & GROSSMAN, ESQS.**

*Attorneys for Plaintiff(s)*

163-09 Northern Boulevard

Flushing, NY 11358

718-461-6633

Fax: (718) 461-1062

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Pursuant to 22 NYCRR 130-1.1A, the undersigned, an attorney admitted to practice in the courts of New York State, certifies that, upon information and belief and reasonable inquiry, (1) the contentions contained in the annexed document are not frivolous and that (2) if the annexed document is an initiating pleading, (i) the matter was not obtained through illegal conduct, or that if it was, the attorney or other persons responsible for the illegal conduct are not participating in the matter or sharing in any fee earned therefrom and that (ii) if the matter involves potential claims for personal injury or wrongful death, the matter was not obtained in violation of 22 NYCRR 1200.41-a.

Dated: \_\_\_\_\_

Signature \_\_\_\_\_

**FRANCESCO POMARA, JR., ESQ.**

TO: